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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,865	10/16/2003	Walter Schubert	S159-1030.1	7435

7590 02/20/2008  
WOMBLE CARLYLE SANDRIDGE & RICE  
P.O. Box 7037  
Atlanta, GA 30357-0037

EXAMINER
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MOSS, KERI A

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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02/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/686,865	Applicant(s) SCHUBERT, WALTER	
	Examiner KERI A. MOSS	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Applicant's amendment filed November 13, 2007 is hereby acknowledged.

Claims 1-10 are pending.

### ***Response to Amendment***

2. Applicant's amendment has raised a claim objection.
3. Rejections of claims 1-10 as anticipated have been maintained.

### ***Claim Interpretation***

4. The language in claim 1, "a two-dimensional support" is reasonably interpreted to mean "a support having at least two dimensions" in view of the preamble language "comprising." Thus, this language encompasses supports having 2 or 3 dimensions.

### ***Claim Objections***

5. Claim 2 was previously interpreted as stating that the drying step may take place before step c. Applicant's amendment changes the interpretation of claim 1 such that the drying step may only follow step c. Thus, claim 2 is adding an additional drying step to the method. To recognize this addition and clarify the meaning of claim 2, the Examiner requests that the Applicant insert "an additional" into claim 2 between "wherein a" and "drying of the sample".

### ***Claim Rejections - 35 USC § 102***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims **1-7 and 10** are rejected under 35 U.S.C. 102(b) as being anticipated by Ryan et al. (WO 99/01474). Ryan teaches a method for preparing biological samples for analysis (page 1 lines 18-20) comprising the steps of placing the biological sample on a two-dimensional support (page 9 lines 22-24); applying protein-precipitating or denaturing first solution I1 to the biological sample at a first temperature T1 for a predetermined first time period Z1 (page 9 lines 16-21); leaving the protein-precipitating or denaturing solution L1 with the biological sample at a second temperature T2 for a predetermined second time period Z2 (page 9 lines 24-25), with T2 being lower than T1 and Z2 being longer, equal to or shorter than Z1; and drying the sample by freeze drying (page 8 lines 25-27). The sample is additionally dried after being placed on the two-dimensional support when it is heated in the evaporator flask (page 9 lines 22-23). This is a method of air drying. The sample is a mixture of macromolecules comprising proteins and carbohydrates. L1, ethanol, is an organic solvent. After process step (d), the biological samples are subjected to a protein determination method (page 10 lines 9-17).

8. Claims **1-6, 8-10** are rejected under 35 U.S.C. 102(b) as being anticipated by Mansfeld et al (USP 3,670,075). Mansfeld teaches a method for preparing biological samples for analysis (column 2 lines 41-44) comprising the steps of placing the biological sample on a support (column 3 lines 28-30); applying protein-precipitating or denaturing first solution L1 to the biological sample at a first temperature T1 for a

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predetermined first time period Z1(column 3 lines 42-47); leaving the protein-precipitating or denaturing solution L1 with the biological sample at a second temperature T2 for a predetermined second time period Z2, with T2 being lower than T1 and Z2 being longer, equal to or shorter than Z1 (column 3 lines 48-50); and drying the sample (column 3 line 57). Drying of the sample may take place after placing the sample on a support by means of vacuum drying (column 3 lines 28-32). After process step b2, the sample is frozen (column 4 lines 6-7). The sample is a tissue sample (column 3 lines 19-20). L1, trichloroacetic acid is a salt solution, is an organic solvent. T1 is 50 degrees Celsius. After process step (d), the biological samples are subjected to a protein-chemical separation method (column 3 line 60-column 4 line 3).

### ***Response to Arguments***

9. Applicant's arguments filed November 13, 2007 have been fully considered but they are not persuasive. The Examiner interprets the amendments as changing the previous claim language by limiting the drying step as taking place after step c). As described in the rejections above, the prior art teaches drying steps after a step c). Thus, applicant's amendments have not overcome the previous rejections.

10. The Examiner interprets the phrase "to form a ready-prepared sample" as representing any form of the sample that has gone through preparation. The specification does not further define the meaning of "ready-prepared". Under the Examiner's interpretation, the amended language does not appear to change the

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meaning of the claims and does not appear to limit the claim meaning in a meaningful way.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KERI A. MOSS whose telephone number is (571)272-8267. The examiner can normally be reached on 9-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Keri A. Moss  
Examiner  
Art Unit 1797

2/14/08

  
Jill Warden  
Supervisory Patent Examiner  
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